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GEORGE ACKERSON, MARY STRANAHAN,
NICHOLAS STREIT and EDWARD HALBACH

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

MOTOR WORKS LLC,

Plaintiff,

vs.

SAFER TECHNOLOGIES, INC., CERMA TECHNOLOGY, INC., GEORGE ACKERMAN, MARY STRANAHAN, NICHOLAS STREIT, TIM STREIT and EDWARD HALBACH,

Defendants.

Case No.: 08-CV-03608 JW

JOINT CASE MANAGEMENT CONFERENCE STATEMENT

Date: July 13, 2009
Time: 11:00 a.m.
Courtroom: 8, 4th Floor
Judge: Hon. James Ware

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Pursuant to Local Rule 16-9 and the Court's Standing Order, the parties respectfully submit the following Joint Case Management Conference Statement:

1. Jurisdiction and Service

The Court has jurisdiction of this action under 28 U.S.C. §§ 1331, 1338(a) and (b), and under the Lanham Act. No issues exist as to venue nor as to personal service as to the appearing defendants. Despite repeated promises to dismiss defendant Stranahan based on her lack of involvement, plaintiff failed to dismiss defendant Stranahan and she has appeared. Defendant Tim Streit has not been served.

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2. Joint Statement of Facts

Plaintiff Motor Works LLC ("Plaintiff") is suing defendants Safer Technologies, Inc., Cerma Technology, Inc., George Ackerman, Mary Stranahan, Tim Streit, Nicholas Streit, and Edward Halbach under the Lanham Act, 15 U.S.C. §1051-1127. This suit involves motor lubricant trademarks, including at least: CERMA, CERMA LUBRICATION, CERMAX, CERMA ENGINE LUBE, CERMA LUBE, CERMA ADVANCED LUBRICATION TECHNOLOGY, CERMA ORGANIC (the "CERMA MARKS").

Plaintiff manufactures motor lubricants. Defendant Cerma Technologies, Inc. ("Cerma Tech.") distributed Plaintiff's product in the past. Certain CERMA MARKS were first used in commerce while Cerma Tech. still distributed those products. After Cerma Tech. stopped selling Plaintiff's product, Safer Technologies, Inc. acquired an interest in Cerma Tech. Plaintiff and Safer Technologies, Inc. have each sought federal registration of certain CERMA MARKS, including one or more conflicting registrations. The individual defendants are officers and/or directors of at least one of the corporate defendants.

Defendants' Additional Statement of Facts

Defendants contend that neither defendant Mary Stranahan nor defendant Tim Streit are officers or directors of any of the corporate defendants. By way of background, Plaintiff is owned and operated by John Murray and his partner, John Saferstein. Defendant Safer Technologies, Inc. (hereinafter, "Defendant STI") is a corporation operated by defendant George Ackerson, its Chief Executive Officer. Defendant Nicholas Streit (hereinafter, "Defendant Streit") is also employed by Defendant STI, as Defendant STI acquired a company formed by Defendant Streit, defendant Cerma Technology, Inc. Cerma Technology, Inc. no longer exists as a separate legal entity.

Although Plaintiff may have "marketed oil additives under the name CERMA," the name CERMA for ceramic lubricating products belongs to a California corporation, Tech Line Coatings, Inc., which owns the registered trademark "CermaLube," used on a ceramic lubricating product directly competing in California, Texas and elsewhere with Plaintiff's product, which is marketed under the name "STM-3." Indeed, the names "CERMAX" and "CERMA

ADVANCED LUBRICATION TECHNOLOGY" were selected by Defendants to avoid infringing Tech Line Coating's mark. See the attached Exhibit "A" from Tech Line Coating's web page, describing CermaLube.

Defendant Streit became aware of Tech Line Coatings mark through an intellectual property attorney, hired to determine if the name "CERMA" was available. The names "CERMAX" and "CERMA ADVANCED LUBRICATION TECHNOLOGY" were selected by Defendant Streit for use by his company, Cerma Technology, Inc., to avoid any infringement claim. A wealth of documents establishes prior use of the names by Cerma Technology.

On May 7, 2008, Defendant STI purchased Defendant Streit's company, Cerma Technology, Inc. On May 12, 2008, Defendant STI filed an application for the trademark "CERMAX" with the United States Patent & Trademark Office ("USPTO"). On September 9, 2008, Plaintiff or John Murray, Plaintiff's owner/operator, filed an opposition to the registration. A 90 day extension to submit evidence supporting the opposition was granted, but expired on December 31, 2008, without any evidence being presented.

On January 5, 2009, Defendant STI was given a USPTO registration, establishing STI's *prima facie* legal right to the CERMAX mark. Plaintiff has yet to produce evidence to support the allegations of Plaintiff's complaint concerning the alleged infringement of the names "CERMAX" and "CERMA ADVANCED LUBRICATION TECHNOLOGY." In fact, the evidence will clearly establish that Defendants originated the marks, first used the marks and have been using those marks continuously in commerce since Defendants originated those marks.

Although the present lawsuit was filed last July and has now been pending for nearly a year, no attempt has been made by Plaintiff to obtain the preliminary injunctive relief prayed for in the complaint. Although Plaintiff and its principal were given ample opportunity to present evidence showing prior use of the CERMAX name to defeat Defendant STI's tradename registration application, no such evidence was presented and the application was granted. The infringement claim is bogus.

If Plaintiff is using Defendant STI's marks, as alleged, Plaintiff is guilty of infringement, not Defendants. Since all of Plaintiff's claims are founded on various canards, which can be

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easily refuted, Defendants have not been prepared to entertain settlement proposals, other than an immediate voluntarily dismissal with prejudice. Further, although Plaintiff's complaint includes an allegation of "reverse engineering," Plaintiff has made no attempt to comply with the filing requirements for such a claim and no cause of action founded on such a claim could be entertained by this Court.

In any case, evidence will establish that the product allegedly "reversed engineered" by Defendants is commercially available to any purchaser. Plaintiff's "product," marketed under the name "STM-3" by Plaintiff, is sold commercially to any buyer by its manufacturer in Germany. Plaintiff is a reseller of a product previously patented by another, not the patent holder, and Plaintiff has no standing to bring a "reverse engineering" claim.

3. Legal Issues

Defendants maintain that Defendant STI owns each of the CERMA MARKS that are used by the Defendants.

4. Motions

Defendants anticipate bringing a motion for summary judgment. Fed.R.Civ.Pro. 56.

5. Amendment of Pleadings

Defendants do not anticipate any amendments of the pleadings.

6. Evidence Preservation

Defendants believe that they have taken proper measures for the preservation of evidence, including evidence stored in electronic media.

7. Disclosures

The parties have completed their Rule 26 initial disclosures.

8. Discovery

Defendants have propounded special interrogatories, requests for admission and document production requests on Plaintiff. Plaintiff's responses, all of which were due on July 1, 2009. To date, no responses or objections have been received. Defendants have also noticed the deposition of Plaintiff's principal, John Murray for July 15, 2009. Plaintiff recently propounded document production requests.

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9. Class Action

This is not a class action case.

10. Related Cases

There are no related cases.

11. Relief

Defendants deny Plaintiff is entitled to any relief.

12. Settlement and ADR

The parties have mediated the case. The case did not settle. No further settlement discussions have occurred.

13. Consent to Magistrate Judge For All Purposes

Defendants consent to assignment to a Magistrate Judge of this Court for all purposes.

14. Other References

Defendants do not believe this case is suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. Narrowing of Issues

Defendants do not anticipate any request to bifurcate issues or defenses, although a motion for summary judgment may be brought when discovery is completed. Fed.R.Civ.P. 56.

16. Expedited Schedule

Defendants believe this case can be handled on an expedited basis with streamlined procedures.

17. Scheduling

Defendants do not anticipate the need for any variation of the deadlines imposed under the Federal Rules of Civil Procedure.

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18. Trial and Proposed Trial Schedule

Defendants believe this action should be ready for trial by December 15, 2009. Defendants expect this to be a judge trial and anticipate that it will last 3 days. The parties propose the following trial schedule:

Trial Date:	December 15, 2009
Pretrial Conference:	December 11, 2009
Pretrial Disclosures:	November 13, 2009
Last Day for Hearing Dispositive Motions:	October 5, 2009
Disclosure of Expert Testimony:	September 15, 2009
Close of All Discovery	August 24, 2009

19. Disclosure of Non-party Interested Entities or Persons

Pursuant to Civil Local Rule 3-16, Defendants certify that as of this date, other than the named parties there is no such interest to report.

Dated: July 6, 2009

CRAIGIE, McCARTHY & CLOW

/s/ James M. Hanavan
By: James M. Hanavan
Attorneys for Defendants
SAFER TECHNOLOGIES, INC.,
CERMA TECHNOLOGY, INC.,
GEORGE ACKERSON,
MARY STRANAHAN,
NICHOLAS STREIT and
EDWARD HALBACH

Dated: July 6, 2009

WEEMS LAW OFFICE

/s/ Robert C. Weems
By: Robert C. Weems
Attorneys for Plaintiff
MOTOR WORKS LLC

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Exhibit "A"

TECH LINE COATINGS, INC.

COATINGS AND LUBRICANTS

About Techline
Intro to Coatings
Products
Applicator's
Newsletter
Tech Articles
F.A.Q.
MSDS

Headquarters and Western Warehouse
TECH LINE COATINGS,INC.
26844 Adams Ave.
Murrieta, CA 92562

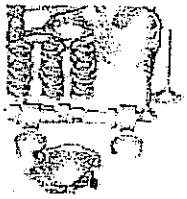
Central Warehouse
Midlothian, TX

Customer Service/ Sales/Tech Line:
1-972-775-6130

Fax: 1-972-775-8125

www.techlinecoatings.com
info@techlinecoatings.com

Bulk and Shop-Only



Internal Engine Coatings

TECH LINE makes available a full range of power enhancing coatings for internal engine parts that can be applied at home. These coatings are the same products being applied by professional coating shops and give the individual the opportunity to benefit from this advanced technology at a cost and time savings. For those who do not wish to do their own coating work, or wish to have TECH LINE specialty coatings applied, hundreds of professional coating shops worldwide apply TECH LINE coatings..

Cermalube(TM) Ceramic Lubricant

CermaLube is a ceramic coating, designed to be used, on any rigid or semi rigid surface experiencing sliding, rotating or oscillating friction. CermaLube is designed to carry loads in excess of 350,00 PSI as well as lubricate at temperatures in excess of 1600f. CermaLube is a combination of a unique water based ceramic resin and lubricating solids including, a ceramic lubricating frit. CermaLube combines the durability of a ceramic resin with the lubricity of the ceramic lubricant. CermaLube works well in light duty applications as well as in applications where high temperatures, high loads and high speeds are experienced. When higher temperatures, than most other types of coatings can provide protection at, are experienced, CermaLube is fully capable of carrying the load. CermaLube is gray in color and acquires a glass like finish in use. CermaLube is formulated to provide a cured film thickness of ".001" or less. CermaLube is a water based material that contains no hazardous solvents.

- PROTECTIVE TO ABOVE 1600F
  - Maintains adhesion at base metal temperatures in excess of 1600f.
- HIGHLY RESISTANT TO THERMAL SHOCK

- Survives cyclic heating and cooling.

- DURABLE SEMI-RIDGID
  - Creates a hard, semi rigid, ceramic like finish that survives impact, as well as expansion and contraction without separating from the base metal.
- HIGH LOAD CAPABILITY
  - Lubricating pigments are capable of carrying loads in excess of 350,000 PSI.
- CORROSION AND CHEMICAL RESISTANT
  - Resistant to most chemicals and acids while inhibiting oxidation.

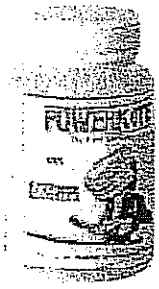
CermaLube is a unique water based system that cures at 350f for 1 hour, at temperature. Material cleans up easily before curing with water. Non flammable system with no V.O.C.'s (volatile organic compounds) is compatible with today's emphasis on environmentally friendly products. CermaLube may be used on all metals except magnesium.

CBC2 POWERKOTE (Cermet Coating Thermal barrier)

- Combustion chamber coating for all metals
- Thermal barrier
- Reduce part temperature. Keeps heat in combustion chamber longer, through the power stroke
- Increase torque and H.P. Increase combustion chamber efficiency
- Reduce fuel consumption
- Covers approximately 24 pistons
- Water based no hazardous fumes, non flammable
- Requires baking. Cures at 350f for 1 hour. Must be oven cured

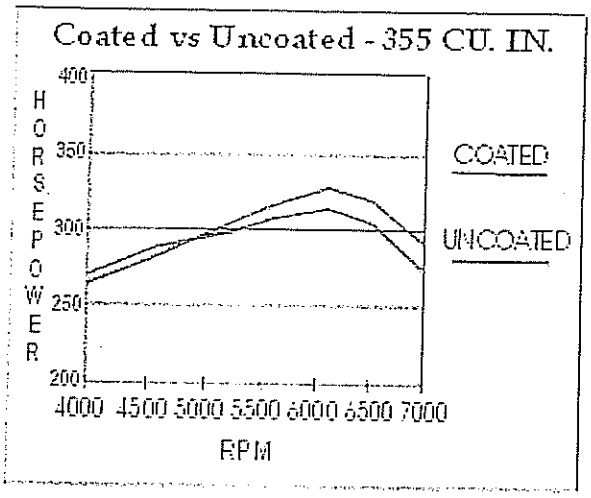
Note use CBX below if using nitrous oxide, supercharged, or turbo charged.

CBX POWERKOTE (Cermet Coating Thermal barrier)



- Designed for Performance engines running; Nitrous oxide, Supercharged or Turbocharged. For all other applications use CBC2
- Creates a hard surface specifically designed for engines running High volumes of fuel and/or high compression ratios
- Thermal barrier coating
- Reduces part temperature. Keeps heat in combustion chamber longer through the power stroke
- Increase torque and H.P. Increase combustion chamber efficiency
- Reduce fuel consumption
- Water based no hazardous fumes, non flammable

Requires baking. Cures at 350f for 1 hour. Must be oven cured



DFL-1 POWERKOTE (Dry Film Lubricant)

- High pressure lubricant
- Reduces friction, galling and scuffing. Increases part life
- Requires no clearance changes to compensate for the coating
- Apply to any part subject to sliding or rotating friction
- Excellent for use on bearings
- Water based no hazardous fumes
- Requires baking. Cures at 300f minimum. Must be oven cured

TLML DRY FILM LUBRICANT

- Extreme pressure bonded lubricant
- Solvent based, can be sprayed in very thin films
- Reduces friction, galling and scuffing. Increase part life
- Requires no clearance changes to compensate for coating
- Oil retaining
- Aids in cooling parts
- Requires baking. Cures at 300f minimum. Must be oven baked

TLML2 DRY FILM LUBRICANT

- Has the same qualities as listed above for TLML
- Softer coating, burnishes very easily
- Use as a top coat for TLMB
- Excellent for crankshaft journals
- Use on parts where no liquid lubricant will be used
- Requires baking. Cures at 300f minimum. Must be oven baked

TLMB HIGH LOAD DURABLE LUBRICANT

- Primarily used to build up piston skirts
- Used in very high RPM engines or where very long rods are run
- Top coat with either TLML2,TLML or WSX
- Requires baking. Cures at 300f minimum. Must be oven baked

PKSX POWERCOAT LUBRICANT

- Designed for cylinder walls, lifter bores and valve guides
- Extreme temperature and pressure lubricant
- Reduces friction and wear
- Bonds at 20 millionth of an inch thick
- Requires NO Baking, Simply buff on.

TLTD THERMAL DISPERSANT

- Rapidly disperses heat away from a coated component
- More evenly distributes heat over a coated surface
- Aids in cooling heat sensitive parts
- Excellent for intake manifolds, brake components, oil pans etc...
- Very good chemical and corrosion resistance
- Black in color
- Cosmetically appealing
- Requires baking. Cures at 300f minimum. Must be oven baked

TLLB LUBRICATED THERMAL BARRIER

- Oil shedding thermal barrier
- Designed for the bottom of intake manifolds
- Use on windage trays, crank scrapers, connecting rods etc...
- Requires baking. Cures at 300f minimum. Must be oven baked

TLHB HI HEAT I.D. COATING

- Modified Polymer
- Designed for the I.D. of chrome pipes to reduce bluing
- Excellent thermal barrier for exhaust ports
- Smooth finish enhances flow in exhaust ports
- May be flowed, brushed, sponged or sprayed
- Requires baking. Cures at 300f minimum. Must be oven baked